

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

LORIANN LUCIANI,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 16-2715-GEKP
	)	
ANDREW SAUL, <sup>1</sup>	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR  
APPROVAL OF ATTORNEY'S FEES PURSUANT TO 42 U.S.C. § 406(b)**

The Defendant, Andrew Saul, Commissioner of Social Security, by counsel, does not object to Plaintiff's motion for attorney's fees under § 206(b) of the Social Security Act, 42 U.S.C. § 406(b). The Commissioner clarifies, however, that these fees are for court time only and are in addition to the administrative fee of Six Thousand dollars and 00/00 cents (\$6,000.00) that the Agency approved under § 206(a) of the Social Security Act, 42 U.S.C. § 406(a). Accordingly, the Commissioner requests that the Court authorize a payment to Plaintiff's counsel, Patrick J. Best, Esquire, in the amount of Eighteen Thousand, Eight Hundred and Twenty-Seven dollars and 00/00 cents (\$18,827.00) in attorney's fees being withheld from Plaintiff's past-due benefits.

In addition, the Commissioner respectfully requests that the Court order Plaintiff's counsel to remit to Plaintiff the amount of the fees previously awarded under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of Three Thousand, Four Hundred and

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<sup>1</sup> Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). See also section 205(g) of the Social Security Act, 42 USC 405(g) (action survives regardless of any change in the person occupying the office of Commissioner of Social Security).

Seventy-Six dollars and 20/00 cents (\$3,476.20). See Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002) (noting that when both EAJA and 406(b) fees are awarded, a claimant's attorney, not the Commissioner, refunds to the claimant the smaller amount).

Respectfully Submitted,

WILLIAM M. McSWAIN  
UNITED STATES ATTORNEY

By: /s/Eda Giusti  
EDA GIUSTI  
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UNITED STATES ATTORNEY  
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OF COUNSEL:

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Assistant Regional Counsel  
Office of the General Counsel  
Social Security Administration

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5th day of July, 2019, a copy of the foregoing Defendant's Response to Plaintiff's Motion for Approval of Attorney's Fees Pursuant to 42 U.S.C. § 406(b) and Proposed Order have been electronically filed and are available for viewing and downloading from the Electronic Case Filing system of the United States District Court for the Eastern District of Pennsylvania. If Plaintiff's counsel was not registered to receive electronic service with the Electronic Case Filing system of the United States District Court for the Eastern District of Pennsylvania, counsel was served, via First Class Mail, on the above date, to the following address:

Patrick J. Best, Esquire  
18 N. 8th Street  
Stroudsburg, PA 18360

/s/ Eda Giusti  
EDA GIUSTI  
SPECIAL ASSISTANT  
UNITED STATES ATTORNEY

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	)	
ANDREW SAUL,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

**ORDER**

On Plaintiff's Motion for Attorney's Fees pursuant to § 206(b)(1) of the Social Security Act, 42 U.S.C. § 406(b)(1), and there being no objection by counsel for the Defendant, it is hereby

**ORDERED**

as follows:

1. That the Court authorizes a payment to **Patrick J. Best, Esquire**, in the amount of Eighteen Thousand, Eight Hundred and Twenty-Seven dollars and 00/00 cents (\$18,827.00) in attorney's fees being withheld from Plaintiff's past-due benefits for court-related services;
2. Upon receipt of this sum, Plaintiff's counsel shall remit Three Thousand, Four Hundred and Seventy-Six dollars and 20/00 cents (\$3,476.20) directly to Plaintiff, representing the sum already paid to counsel on Plaintiff's behalf pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
J.